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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,862	09/24/2004	Jose Luis Ascaso Lopez	Q-83671	8701

23373 7590 07/20/2006

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EXAMINER

SIMONE, TIMOTHY F

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

5

Office Action Summary	Application No.	Applicant(s)	
	10/508,862	ASCASO LOPEZ, JOSE LUIS	
	Examiner	Art Unit	
	Timothy F. Simone	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 8-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Election/Restrictions***

Newly submitted claims 8-14 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The inventions as claimed are independent since they are not connected in design, operation or effect, i.e., each invention is separately usable and the operation, design and effect of one is independent of the other. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 8-14 stand withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

Art Unit: 1761

skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 1, for example, the recitation "wherein the dosage is placed in the dosage carrying body for infusion and extracted from the dosage carrying body after infusion ***without detaching*** the dosage carrying mechanism from the infusion chamber" is not supported in the original disclosure. This is a new matter rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 671 141. The EP 0 671 141 reference discloses the claimed invention except for the dosage being placed in the dosage carrying body for infusion and extracted from the dosage carrying body after infusion without detaching the dosage carrying mechanism from the infusion chamber. It would have been an obvious matter of design choice to have the dosage placed in the dosage carrying body for infusion and extracted from the dosage carrying body after infusion without detaching the dosage carrying mechanism from the infusion chamber, since applicant has not disclosed that the dosage being placed in a dosage carrying body for infusion and extracted from the

Art Unit: 1761

dosage carrying body after infusion without detaching the dosage carrying mechanism from the infusion chamber solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well. The drive arm (51) of EP 0 671 141 is obviously capable of rotating in both directions around the longitudinal axis.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 153 549. The EP 0 153 549 reference discloses the claimed invention except for the dosage being placed in the dosage carrying body for infusion and extracted from the dosage carrying body after infusion without detaching the dosage carrying mechanism from the infusion chamber. It would have been an obvious matter of design choice to have the dosage placed in the dosage carrying body for infusion and extracted from the dosage carrying body after infusion without detaching the dosage carrying mechanism from the infusion chamber, since applicant has not disclosed that the dosage being placed in a dosage carrying body for infusion and extracted from the dosage carrying body after infusion without detaching the dosage carrying mechanism from the infusion chamber solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well. The drive arm (as shown in Fig. 4) of EP 0 153 549 is obviously capable of rotating in both directions around the longitudinal axis.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new grounds of rejection. Applicant's amendment necessitated the new

Art Unit: 1761

ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy F. Simone whose telephone number is 571-272-1407. The examiner can normally be reached on weekdays between 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 521-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy F. Simone
Primary Examiner
Art Unit 1761